IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 8TH AUGUST 2007 / 17TH SRAVANA 1929

Crl.MC.No. 3957 of 2002()

CMP.843/2002 of JUDL.MAGISTRATE OF FIRST CLASS-III, PUNALUR

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PETITIONER: PETITIONER/FIRST ACCUSED.

ALIYAR KUNJU, KAMBILYAM VEEDU,
URUKUNNU MURI, THENMALA VILLAGE.

BY ADV. SRI.B.KRISHNA MANI
SRI.V.PREMCHAND

RESPONDENTS: COMPLAINANT 2ND ACCUSED.

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1. VIMAL KUMAR, MUTHALI STREET,
SOUTHARPET, TAMIL NADU.

2. SALAHUDEEN FATHIMA AGENCIES,
URUKUNNU VILLAGE, PUNALUR, KOLLAM DISTRICT.

3. THE STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.BECHU KURIAN THOMAS

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 08/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.M.C.No.3957 of 2002

Dated this the 8th day of August, 2007

O R D E R

The revision petitioner is the alleged first accused in C.M.P.No.843/2002 in the court of JFCM-III, Punalur with respect to the offences under Sections 415 and 420 IPC on the allegation that the accused after availing loan on the security of the vehicle i.e., jeep KL7H 3024 from the complainant transferred the same to the second accused who has taken the same to Tamilnadu for selling after dismantling. The complainant has also sought for issuance of search warrant and seizure of the vehicle. It is submitted that in pursuant to the order of the court below, the vehicle was seized and the same has been entrusted with the Sub Inspector of Police, Punalur for safe keeping. It is the contention of the petitioner herein that the above proceedings are the result of false averments and is liable to be set aside and has also sought for setting aside the order of the court below directing that the vehicle to be kept in the custody by Sub Inspector, Punalur.

2. It is seen that the vehicle was seized and produced before the court below on 1.2.2002 and the same has been

entrusted with the custody of Sub Inspector of Punalur. I find that the allegations involved disputed questions of fact which can be determined only by the trial court. It is up to the petitioner herein to apply for discharge; and also apply for the custody of the vehicle under Section 451 Crl.P.C. The petitioner will be at liberty to move the court below.

The Crl.M.C. is disposed with the above direction.

K.R.UDAYABHANU,
JUDGE

csl